

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

**FILED**

**JUN 17 2013**

Clerk, U.S. District Court  
District Of Montana  
Missoula

RICHARD W. GILLINGHAM,

Petitioner,

vs.

LEROY KIRKEGARD and ATTORNEY  
GENERAL OF THE STATE OF  
MONTANA,

Respondents.

CV 13-77-M-DWM-JCL

ORDER

Richard Gillingham filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. He is a state prisoner proceeding pro se. Gillingham's petition challenges the revocation of his probation. Magistrate Judge Lynch recommends dismissing the petition for lack of jurisdiction because Gillingham's petition is an unauthorized second habeas petition.

Gillingham is entitled to a de novo review of the specified findings or recommendations to which he timely objected. 28 U.S.C. § 636(b)(1). But the portion of Judge Lynch's Findings and Recommendation not specifically objected to are reviewed for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). General conclusory objections

do no warrant de novo review. *Eastman v. Swanson*, 2012 WL 2862439, \*1 (D. Mont. July 11, 2012).

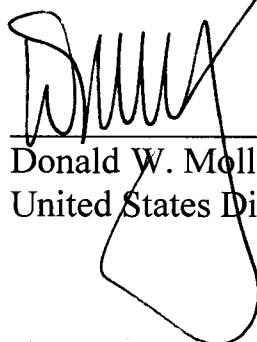
Gillingham offers no specific objections to the Findings and Recommendation. He asserts only that he is innocent. (Doc. 10.) That objection is no specific enough to warrant de novo review.

The Court finds no clear error in Judge Lynch's Findings and Recommendation. For the reasons given in the Findings and Recommendation, Gillingham's petition is dismissed, and a certificate of appealability is denied.

IT IS ORDERED that the Findings and Recommendation (doc. 9) is adopted in full. Richard Gillingham's petition for a writ of habeas corpus (doc. 1) is DISMISSED for lack of jurisdiction. The Clerk of Court is directed enter by separate document a judgment of dismissal.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

Dated this 17<sup>th</sup> day of June 2013.



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Donald W. Molloy, District Judge  
United States District Court